

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14059 of Kyung Soo and Kyong Sun Kim, as amended, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 7106.11 to change a nonconforming use from television repair shop, first floor, to a dry cleaning business, pick-up and delivery, first floor, in an R-5-B District at premises 1797 Lanier Place, N.W., (Square 2583, Lot 358).

HEARING DATE: October 26, 1983

DECISION DATE: November 2, 1983

FINDINGS OF FACT:

1. The application was amended at the hearing by Kyong Sun Kim to a request to allow the operation of a dry cleaning pick up and delivery use, otherwise known in the trade as a dry store, without having dry cleaning machines on site. There was no opposition to this request to amend the application at the hearing. The Board granted the amendment.

2. The subject premises is located on the north side of Lanier Place, N.W., between Adams Mill Road on the west and Ontario Road on the east. The site is in an R-5-B District and is known as premises 1797 Lanier Place, N.W.

3. The subject site is rectangular in shape. Its dimensions are thirty feet on the north and south sides and eighty-one feet on the east and west sides. It has an area of 2,430 square feet.

4. The site is improved with a one-story commercial structure which was constructed in 1910. The subject structure has a floor area of less than 1,000 square feet and occupies approximately one-third of the subject lot.

5. There is access to and from the subject site through Lanier Place on the south. There is no alley access. Lanier Place has a one-way westbound traffic flow. The subject site is located adjacent to the western exit from Lanier Place at its intersection with Adams Mill Road.

6. The subject square is developed with apartment buildings and row dwellings. The subject site and the grocery store adjacent to it on the east are the only commercial uses in the square. At the midpoint of the

subject block is the District of Columbia Fire Engine Company No. 21, which fronts on Lanier Place and uses the subject street as an exit to answer fire calls.

7. The surrounding neighborhood is developed with medium density residential uses. Extensive renovations have taken place in the neighborhood area. The area is zoned R-5-B on all sides of the subject site, with the exception of a gasoline station which is located immediately south of the site across Lanier Place and is zoned C-2-A. One block to the south is the Columbia Road commercial strip which runs parallel to Lanier Place and is zoned C-2-B.

8. The subject premises has been occupied by a television repair shop since October 18, 1967, pursuant to Board of Zoning Adjustment Order No. 9342 which granted a change of nonconforming use of the subject premises from a refrigeration service and storage business to a radio and T.V. repair service. Certificate of Occupancy No. B-130884, dated July 17, 1982, allows the first floor of the subject premises to be used as a television repair shop subject to the above order.

9. The applicant purchased the subject property approximately three and one half years ago and has operated it since that time as two stores. The eastern portion of the structure is being operated by the applicant as a neighborhood grocery store and the western portion is presently the television repair shop. The applicant has built up a regular clientele of neighborhood residents. Many of the regular customers have expressed the sentiment that a dry cleaning store located adjacent to the grocery store would serve their needs better than the existing dry cleaners on Columbia Road.

10. The applicant proposes to convert the subject television repair shop to a pick up and delivery store for dry cleaning. This type of use is known in the dry cleaning trade as a "dry store." The space that would be used for the subject dry store is eleven feet wide and forty-nine feet deep. The space occupies the one-room ground floor level of the western portion of the subject commercial building.

11. The customers for the subject dry store are expected to be drawn from among the existing clientele of the applicant's grocery store adjacent to the proposed dry store. No advertizing will be done outside the neighborhood. Foot traffic from the neighborhood is expected to be adequate to sustain the business. The small percentage of customers that are expected to come to the site by car could be accommodated by two on-street parking spaces immediately in front of the subject premises. These two spaces have been designated as a loading zone. Cars are permitted to stand in the loading zone while the occupants

transact business in the subject premises, but no parking is allowed therein.

12. The owners, Mr. and Mrs. Kim, would operate both businesses in the subject premises with the assistance of employees from the neighborhood. Mrs. Kim would operate the proposed dry store with one employee, while Mr. Kim would operate the grocery store. The hours of operation for the proposed dry store would be from 7:00 A.M. to 7:00 P.M., Monday through Saturday. The pick up and delivery of clothes to be cleaned would be done by van during daylight hours when traffic is light.

13. The Board of Zoning Adjustment has authority to grant special exceptions for the change of nonconforming uses under Sub-section 8207.2 and Paragraph 7106.11 of the D.C. Zoning Regulations. Sub-section 8207.2 reads as follows:

"The Board is authorized to grant special exceptions as provided in the preceeding articles of these regulations where in the judgement of the Board such special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and maps, and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and maps, subject in each case to the special conditions specified in said articles."

14. Paragraph 7106.11 provides that, subject to the conditions enumerated in Sub-paragraphs 7106.111 through 7106.116, a nonconforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing nonconforming use is permitted as a matter-of-right.

15. The present use as a television repair shop is first permitted as a matter-of-right in the C-1 zone. The proposed use as a dry cleaning pick-up and delivery store, not exceeding 2500 square feet of gross floor area, is also first permitted in the C-1 zone.

16. The proposed use will have no adverse affect on the present character and future development of the surrounding area within 300 feet. The present use as a television repair store has been compatible with the area. Since the proposed use involves the same low intensity of activity with customers coming primarily by foot, the new use should also be compatible. The operation of a low intensity commercial use at the subject location will continue to provide a transition point between the medium density residential area on Lanier Place and the commercial strip along Columbia Road.

17. The proposed use will not create any deleterious external effects. There will be no dry-cleaning equipment on site and therefore no noise, vibrations, fumes or odors will be produced. Automobile traffic will be accommodated in a loading zone adjacent to the front of the premises. No illuminated signs will be used.

18. The existing nonconforming use in the premises has been continuous, and has never been changed to a conforming or more restrictive use.

19. The proposed nonconforming use will be a neighborhood facility, as is required in a residential zone. The applicant's grocery store presently serves local neighborhood residents from a small area surrounding the site. The same neighborhood customers are expected to patronize the proposed dry cleaning pick-up store. No advertizing will be done to attract customers from a wider area. A petition containing the signatures of sixty-one neighbors who supported the application was read into the record by the applicant.

20. Although the subject property is located in an R-5-B District, it has had a history of nonconforming uses. The structure is of commercial design and has inadequate space for a residential unit.

21. No changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, nor any other restrictions or safeguards, are necessary to protect the neighborhood, due to the low intensity of the proposed use.

22. The Office of Planning, by report dated October 20, 1983, recommended that this application be approved. The Office of Planning was of the opinion that the granting of this application would be consistent with the criteria for approval of a change of nonconforming use as set forth in Paragraph 7106.11. The Office of Planning reported that the small dry cleaning operation will not adversely affect the surrounding area, and will constitute a neighborhood facility. The Office of Planning recommended approval of this application subject to the condition that no neon gas tube displays shall be located on the outside of the building nor shall any such displays if placed inside the building, be visible from the outside. The Board concurs with the reasoning and recommendations of the Office of Planning but finds that the recommendation as to a condition is unnecessary, as the applicants have proposed no such signs.

23. Advisory Neighborhood Commission 1-C made no report on the application.

24. Two neighbors testified in support of the application. One neighbor was chairperson of the Community Park West Planning Committee and a member of the executive council of the Adams Mill Organization. The other neighbor was Vice President of the Stafford Owners, Inc. and secretary of the 18th and Columbia Road Business Association. The Stafford is an apartment building located three doors east of the subject site. The organizations supported the application. The neighbors' support was based on the way the Kims conducted the grocery store business. The store is clean and attractive and the Kims have rehabilitated the subject property which was dilapidated before they bought it. The Kims have been responsive to the neighbors and the neighbors strongly support them. One of the representatives testifying in support had talked with approximately 200 neighbors and all had expressed support. The proposed dry cleaning business would enable neighbors to avoid a walk to Columbia Road.

25. The supporting neighbors had suggested that the Kims operate the proposed facility as a dry cleaning pick up and delivery service instead of an on-site dry-cleaning store. The elimination of the fumes from on-site dry cleaning eliminated most opposition to the use in the neighborhood. The neighbors in support felt that the loading zone in front of the subject site would be adequate to prevent parking problems. Most people will walk to the store with their dry cleaning.

26. The neighborhood residents presented the applicant with a petition of support containing sixty-one signatures. The grounds for support were that the Kims run a very good business with their existing store, and that the neighbors thus knew that the applicants would bring another good business to the neighborhood.

27. Three neighbors testified in opposition to the application. One of the opposing neighbors represented the Lehigh Co-operative, Inc. and the Lambert Owners, Inc. These two associations represent the owner-occupants of the apartment buildings that adjoin the subject site on the east and west. The opponent also represented two neighbors who could not appear. The opposing neighbors were concerned about double parking in front of the subject site especially as it affects the exit of fire engines from Lanier Place. Fire trucks from engine Co. 21 on Lanier Place often sound loud horns to clear cars that have double-parked in front of the subject premises.

28. The neighbors testified that the regulations for the loading zone in front of the subject premises are not enforced by the police. The neighbors expressed concern that the proposed use would generate more traffic than the present use with a resulting increase in the number of cars

double-parking. The opponents conceded that most customers walk to the subject store, but contended that a small percentage drive cars and that could increase with the new use. Parking is permitted on both sides of Lanier Place, thus leaving a narrow corridor for moving vehicles. If double parkers cannot be moved, then the fire engines are obliged to back out of Lanier Place going the wrong way on a one-way street. The opponents testified that they hold Mrs. Kim in the highest esteem for the way she has rehabilitated the subject property, but they hoped she would find another use for the subject premises. The opponents were of the opinion that there are already sufficient dry cleaning services in the commercial district nearby.

29. The supporting neighbors testified in response to the opposition that the Fire Department is not dissatisfied with the availability of access to and from Engine Co. 21 as witnessed by the recent renovation of the subject fire station. The supporters further testified that double parking occurs throughout the subject block in connection with visitors to the multi-family and single family dwellings on Lanier Place. They were of the opinion that customers bringing a television set to the existing repair shop are more likely to come by car than customers bringing dry cleaning to the proposed facility.

30. The Board finds that the proposed use will be a neighborhood facility oriented to the immediate area which it serves. As such, it is not likely that many people will come to the store by car, and that problems from double-parking should be minimal. The Board will limit its approval to an initial three year period, in order to be able to assess the actual impact of the use as it is operated.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to change a nonconforming use. The granting of such a special exception requires that the proposed use be permitted as a matter-of-right in the most restrictive district in which the existing use is permitted, as provided in Paragraph 7106.11 of the D.C. Zoning Regulations. The Board must further find that the relief requested, if granted, will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and maps.

The Board concludes that the applicant has met this burden of proof. The proposed nonconforming use of the subject premises as a dry cleaning pick-up and delivery

store is first permitted as a matter-of-right in the C-1 District, as is the present nonconforming use as a television repair shop. The proposed use will be a neighborhood facility.

The Board further concludes that there is substantial evidence that the nonconforming use will have no adverse affect on the present character and future development of the surrounding area within 300 feet. The proposed use will not create any deleterious external effects. The proposed use meets all requirements of Sub-paragraphs 7106.111 through 7106.116. The Board will, however limit approval to a three year period, in order to assess the actual impact of the use as operated.

The Board finally concludes that the change of nonconforming use will be in harmony with the general purpose and intent of the zoning regulations and maps and will not tend to affect adversely the use of neighboring property in accordance with said zoning regulations and maps. The dry cleaning pick up and delivery store will be a low intensity commercial use that will provide a convenience for local residents of the subject R-5-B District. Accordingly, it is hereby ORDERED that the application is GRANTED, subject to the CONDITION that approval shall be for a period of three years from the date of this order.

VOTE: 4-0 (Douglas J. Patton, Carrie L. Thornhill, and William F. McIntosh to grant; Walter B. Lewis to grant by proxy; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

MAR 30 1984

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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